

## TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

**§ 5878a. Funding and encouragement of small business; information for inclusion in report**

The Secretary of Energy shall,<sup>1</sup> include, in the report required by section 204(b) of the Department of Energy Act of 1978—Civilian Applications (42 U.S.C. 7256, note; 92 Stat. 60), information detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Secretary of Energy, and the extent to which small business involvement pursuant to section 5801(d) of this title is being encouraged by the Secretary of Energy.

(Pub. L. 94-187, title III, § 308, Dec. 31, 1975, 89 Stat. 1074; Pub. L. 96-470, title II, § 203(e), Oct. 19, 1980, 94 Stat. 2243.)

## REFERENCES IN TEXT

Section 204(b) of the Department of Energy Act 1978—Civilian Applications (42 U.S.C. 7256, note; 92 Stat. 60), referred to in text, is section 204(b) of Pub. L. 95-238, title II, Feb. 25, 1978, 92 Stat. 59, as amended, which is set out as a note under section 7256 of this title.

## CODIFICATION

Section was not enacted as a part of the Energy Reorganization Act of 1974 which comprises this chapter.

## AMENDMENTS

1980—Pub. L. 96-470 substituted “include, in the report required by section 204(b) of the Department of Energy Act of 1978—Civilian Applications, information” for “by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate” and “Secretary of Energy” for “Administrator” wherever appearing.

**§ 5879. Transfer of funds**

The Administrator, when authorized in an appropriation Act, may, in any fiscal year, transfer funds from one appropriation to another within the Administration; except, that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

(Pub. L. 93-438, title III, § 309, Oct. 11, 1974, 88 Stat. 1252.)

## TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

## SUBCHAPTER IV—SEX DISCRIMINATION

**§ 5891. Sex discrimination prohibited**

No person shall on the ground of sex be excluded from participation in, be denied a license

under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any subchapter of this chapter. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Pub. L. 93-438, title IV, § 401, Oct. 11, 1974, 88 Stat. 1254.)

## REFERENCES IN TEXT

Any subchapter of this chapter, referred to in text, was in the original “any title of this Act”, meaning Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which enacted this chapter, amended sections 5313 to 5316 of Title 5, Government Organization and Employees, repealed sections 2031 and 2032 of this title, and enacted provisions set out as notes under section 5801 of this title.

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

**CHAPTER 74—NONNUCLEAR ENERGY  
RESEARCH AND DEVELOPMENT**

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**§ 5901. Congressional statement of findings**

The Congress hereby finds that—

(a) The Nation is suffering from a shortage of environmentally acceptable forms of energy.

<sup>1</sup> So in original. The comma probably should not appear.

(b) Compounding this energy shortage is our past and present failure to formulate a comprehensive and aggressive research and development program designed to make available to American consumers our large domestic energy reserves including fossil fuels, nuclear fuels, geothermal resources, solar energy, and other forms of energy. This failure is partially because the unconventional energy technologies have not been judged to be economically competitive with traditional energy technologies.

(c) The urgency of the Nation's energy challenge will require commitments similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake a research, development, and demonstration program in nonnuclear energy technologies with a total Federal investment which may reach or exceed \$20,000,000,000 over the next decade.

(d) In undertaking such program, full advantage must be taken of the existing technical and managerial expertise in the various energy fields within Federal agencies and particularly in the private sector.

(e) The Nation's future energy needs can be met if a national commitment is made now to dedicate the necessary financial resources, to enlist our scientific and technological capabilities, and to accord the proper priority to developing new nonnuclear energy options to serve national needs, conserve vital resources, and protect the environment.

(Pub. L. 93-577, § 2, Dec. 31, 1974, 88 Stat. 1879.)

#### SHORT TITLE

Pub. L. 93-577, § 1(a), as added Pub. L. 109-58, title X, § 1009(b)(1), Aug. 8, 2005, 119 Stat. 934, provided that: "This Act [enacting this chapter] may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974'."

#### DEFINITIONS

Pub. L. 93-577, § 1(b), as added Pub. L. 109-58, title X, § 1009(b)(1), Aug. 8, 2005, 119 Stat. 934, provided that: "In this Act [enacting this chapter]:

"(1) The term 'Department' means the Department of Energy.

"(2) The term 'Secretary' means the Secretary of Energy."

### § 5902. Congressional declaration of policy and purpose; implementation and administration of program by Secretary of Energy

(a) It is the policy of the Congress to develop on an urgent basis the technological capabilities to support the broadest range of energy policy options through conservation and use of domestic resources by socially and environmentally acceptable means.

(b)(1) The Congress declares the purpose of this chapter to be to establish and vigorously conduct a comprehensive, national program of basic and applied research and development, including but not limited to demonstrations of practical applications, of all potentially beneficial energy sources and utilization technologies, within the Department.

(2) In carrying out this program, the Secretary shall be governed by the terms of this chapter and other applicable provisions of law with respect to all nonnuclear aspects of the research,

development, and demonstration program; and the policies and provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], and other provisions of law shall continue to apply to the nuclear research, development, and demonstration program.

(3) In implementing and conducting the research, development, and demonstration programs pursuant to this chapter, the Secretary shall incorporate programs in specific nonnuclear technologies previously enacted into law, including those established by the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409) [42 U.S.C. 5501 et seq.], the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-410) [30 U.S.C. 1101 et seq.], and the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-473) [42 U.S.C. 5551 et seq.].

(Pub. L. 93-577, § 3, Dec. 31, 1974, 88 Stat. 1879; Pub. L. 109-58, title X, § 1009(b)(2), Aug. 8, 2005, 119 Stat. 934.)

#### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Solar Heating and Cooling Demonstration Act of 1974, referred to in subsec. (b)(3), is Pub. L. 93-409, Sept. 3, 1974, 88 Stat. 1069, as amended, which is classified generally to subchapter I (§ 5501 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables.

The Geothermal Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3), is Pub. L. 93-410, Sept. 3, 1974, 88 Stat. 1079, as amended, which is classified generally to chapter 24 (§ 1101 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 30 and Tables.

The Solar Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3), is Pub. L. 93-473, Oct. 26, 1974, 88 Stat. 1431, as amended, which is classified generally to subchapter II (§ 5551 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables.

#### AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109-58, § 1009(b)(2)(A), substituted "Department" for "Energy Research and Development Administration".

Subsec. (b)(2). Pub. L. 109-58, § 1009(b)(2)(B), substituted "Secretary" for "Administrator of the Energy Research and Development Administration (hereinafter in this chapter referred to as the 'Administrator')".

Subsec. (b)(3). Pub. L. 109-58, § 1009(b)(2)(C), substituted "Secretary" for "Administrator" and inserted "Demonstration" after "Cooling".

### § 5903. Duties and authorities of the Secretary

The Secretary shall—

(a) review the current status of nonnuclear energy resources and current nonnuclear energy research and development activities, including research and development being conducted by Federal and non-Federal entities;

(b) formulate and carry out a comprehensive Federal nonnuclear energy research, develop-

ment, and demonstration program which will expeditiously advance the policies established by this chapter and other relevant legislation establishing programs in specific energy technologies;

(c) utilize the funds authorized pursuant to this chapter to advance energy research and development by initiating and maintaining, through fund transfers, grants, or contracts, energy research, development and demonstration programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, industrial entities, and other non-Federal entities which are appropriate to each type of research, development, and demonstration activity;

(d) establish procedures for periodic consultation with representatives of science, industry, environmental organizations, consumers, and other groups who have special expertise in the areas of energy research, development, and technology; and

(e) initiate programs to design, construct, and operate energy facilities of sufficient size to demonstrate the technical and economic feasibility of utilizing various forms of non-nuclear energy.

(Pub. L. 93-577, § 4, Dec. 31, 1974, 88 Stat. 1880; Pub. L. 109-58, title X, § 1009(b)(3), Aug. 8, 2005, 119 Stat. 934.)

#### AMENDMENTS

2005—Pub. L. 109-58 added section catchline, struck out former catchline, and substituted “Secretary” for “Administrator” in introductory provisions.

#### CLASSIFICATION OF RECIPIENTS OF AWARDS, CONTRACTS, OR OTHER FINANCIAL ARRANGEMENTS; REPORTING REQUIREMENT

Pub. L. 95-39, title I, § 111, June 3, 1977, 91 Stat. 186, provided that:

“(a) The Administrator [now Secretary of Energy] shall classify each recipient of any award, contract, or other financial arrangement in any nonnuclear research, development, or demonstration category as—

“(1) a Federal agency,

“(2) a non-Federal governmental entity,

“(3) a profitmaking enterprise (indicating whether or not it is a small business concern),

“(4) a nonprofit enterprise other than an educational institution, or

“(5) a nonprofit educational institution.

“(b) The information required by subsection (a), along with the dollar amount of each award, contract, or other financial arrangement made, shall be included as an appendix to the annual report required by section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 ([former] 42 U.S.C. 5914): *Provided*, That small purchases or contracts of less than \$10,000, which are excepted from the requirements of advertising by section 252(c)(3) of title 41, United States Code, shall be exempt from the reporting requirements of this section.”

#### § 5903a. Nonduplication of programs, projects, and research facilities

The Secretary shall coordinate nonnuclear programs of the Department of Energy with the heads of relevant Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

(Pub. L. 94-187, title III, § 309, Dec. 31, 1975, 89 Stat. 1074; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

#### CODIFICATION

Section was not enacted as a part of the Federal Non-nuclear Energy Research and Development Act of 1974 which comprises this chapter.

#### TRANSFER OF FUNCTIONS

“Secretary”, meaning Secretary of Energy, substituted in text for “Administrator”, meaning Administrator of Energy Research and Development Administration, and “Department of Energy” substituted in text for “Administration” pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

#### § 5903b. Environmental and safety research, development, and demonstration program

The Secretary shall conduct an environmental and safety research, development, and demonstration program related to fossil fuels.

(Pub. L. 94-187, title III, § 316, Dec. 31, 1975, 89 Stat. 1077; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

#### CODIFICATION

Section was not enacted as a part of the Federal Non-nuclear Energy Research and Development Act of 1974 which comprises this chapter.

#### TRANSFER OF FUNCTIONS

“Secretary”, meaning Secretary of Energy, substituted in text for “Administrator”, meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

#### § 5903c. Moneys received by Secretary from fossil energy activity; payment into Treasury; reports to House and Senate Committees

All moneys received by the Secretary from any fossil energy activity shall be paid into the Treasury to the credit of miscellaneous receipts, except that on December 1 of each year the Secretary shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of all such receipts for the preceding fiscal year, including, but not limited to, the amount and source of such revenues and the program and subprogram activity generating such revenues.

(Pub. L. 95-39, title I, § 106, June 3, 1977, 91 Stat. 184; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 103-437, § 15(c)(8), Nov. 2, 1994, 108 Stat. 4592.)

#### CODIFICATION

Section was not enacted as part of the Federal Non-nuclear Energy Research and Development Act of 1974 which comprises this chapter.

#### AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Science, Space, and Technology” for “Committee on Science and Technology”.

## CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## TRANSFER OF FUNCTIONS

“Secretary”, meaning Secretary of Energy, substituted in text for “Administrator”, meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

**§ 5903d. Clean coal technology projects; proposals, implementation, funding, etc.**

Within 60 days following December 19, 1985, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), issue a general request for proposals for clean coal technology projects for which the Secretary of Energy upon review may provide financial assistance awards. Proposals for clean coal technology projects under this section shall be submitted to the Department of Energy within 60 days after issuance of the general request for proposals. The Secretary of Energy shall make any project selections no later than August 1, 1986: *Provided*, That the Secretary may vest fee title or other property interests acquired under cost-shared clean coal technology agreements in any entity, including the United States: *Provided further*, That the Secretary shall not finance more than 50 per centum of the total costs of a project as estimated by the Secretary as of the date of award of financial assistance: *Provided further*, That cost-sharing by project sponsors is required in each of the design, construction, and operating phases proposed to be included in a project: *Provided further*, That financial assistance for costs in excess of those estimated as of the date of award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance: *Provided further*, That revenues or royalties from prospective operation of projects beyond the time considered in the award of financial assistance, or proceeds from prospective sale of the assets of the project, or revenues or royalties from replication of technology in future projects or plants are not cost-sharing for the purposes of this appropriation: *Provided further*, That other appropriated Federal funds are not cost-sharing for the purposes of this appropriation: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice.

(Pub. L. 99-190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1251.)

## REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to this chapter (§5901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

## CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

**PROVISIONS RELATING TO PROJECTS USING CLEAN COAL TECHNOLOGIES**

Provisions relating to projects using clean coal technologies were contained in the following appropriations acts:

Pub. L. 102-154, title II, Nov. 13, 1991, 105 Stat. 1019;  
 Pub. L. 103-211, title II, Feb. 12, 1994, 108 Stat. 18.  
 Pub. L. 101-512, title II, Nov. 5, 1990, 104 Stat. 1944;  
 Pub. L. 103-211, title II, Feb. 12, 1994, 108 Stat. 18.  
 Pub. L. 101-121, title II, Oct. 23, 1989, 103 Stat. 728.  
 Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1811.  
 Pub. L. 100-202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-240.  
 Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-272, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-272.

**§ 5904. Research, development, and demonstration program governing principles**

(a) The Congress authorizes and directs that the comprehensive program in research, development, and demonstration required by this chapter shall be designed and executed according to the following principles:

(1) Energy conservation shall be a primary consideration in the design and implementation of the Federal nonnuclear energy program. For the purposes of this chapter, energy conservation means both improvement in efficiency of energy production and use, and reduction in energy waste.

(2) The environmental and social consequences of a proposed program shall be analyzed and considered in evaluating its potential.

(3) Any program for the development of a technology which may require significant consumptive use of water after the technology has reached the stage of commercial application shall include thorough consideration of the impacts of such technology and use on water resources pursuant to the provisions of section 5912 of this title.

(4) Heavy emphasis shall be given to those technologies which utilize renewable or essentially inexhaustible energy sources.

(5) The potential for production of net energy by the proposed technology at the stage of commercial application shall be analyzed and considered in evaluating proposals.

(b) The Congress further directs that the execution of the comprehensive research, development, and demonstration program shall conform to the following principles:

(1) Research and development of nonnuclear energy sources shall be pursued in such a way

as to facilitate the commercial availability of adequate supplies of energy to all regions of the United States.

(2) In determining the appropriateness of Federal involvement in any particular research and development undertaking, the Secretary shall give consideration to the extent to which the proposed undertaking satisfies criteria including, but not limited to, the following:

(A) The urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance.

(B) The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results.

(C) The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance.

(D) There are limited opportunities to induce non-Federal support of the undertaking through regulatory actions, end use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance.

(E) The degree of risk of loss of investment inherent in the research is high, and the availability or risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology.

(F) The magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

(Pub. L. 93-577, § 5, Dec. 31, 1974, 88 Stat. 1880; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

#### TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted in text for "Administrator", meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

#### NATIONAL ALCOHOL FUELS COMMISSION

Pub. L. 95-599, title I, § 170, Nov. 6, 1978, 92 Stat. 2724, as amended by Pub. L. 96-106, § 20, Nov. 9, 1979, 93 Stat. 799, established the National Alcohol Fuels Commission, directed the Commission to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels, from biomass (including but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and ocean and terrestrial crops) and coal, to contribute to meeting the Nation's energy needs, and provided that, not later than eighteen months after being established, the Commission submit to the President and the Congress its final report including its recommendations and findings, with the Commission to cease to exist six months after submission of such report.

#### § 5905. Comprehensive planning and programming

(a) Pursuant to the authority and directions of this chapter and the Energy Reorganization Act of 1974 (Public Law 93-438) [42 U.S.C. 5801 et seq.], the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy Act of 1992 [42 U.S.C. 13401 et seq., 13451 et seq., 13501 et seq., 13521 et seq.], the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall transmit to the Congress, on or before June 30, 1975, a comprehensive plan for energy research, development, and demonstration. This plan shall be appropriately revised annually as provided in section 5914(a)<sup>1</sup> of this title. Such plan shall be designed to achieve—

(1) solutions to immediate and short-term (the period up to 5 years after submission of the plan or its annual revision) energy supply system and associated environmental problems;

(2) solutions to middle-term (the period from 5 years to 10 years after submission of the plan or its annual revision) energy supply system and associated environmental problems; and

(3) solutions to long-term (the period beyond 10 years after submission of the plan or its annual revision) energy supply system and associated environmental problems.

(b)(1) Based on the comprehensive energy research, development, and demonstration plan developed under subsection (a) of this section, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall develop and transmit to the Congress, on or before June 30, 1975, a comprehensive nonnuclear energy research, development, and demonstration program to implement the nonnuclear research, development, and demonstration aspects of the comprehensive plan. Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914<sup>1</sup> of this title.

(2) This program shall be designed to achieve solutions to the energy supply and associated environmental problems in the immediate and short-term, middle-term, and long-term time intervals described in subsection (a)(1) through (3) of this section. In formulating the nonnuclear aspects of this program, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall evaluate the economic, environmental, and technological merits of each aspect of the program.

(3) The Secretary shall assign program elements and activities in specific nonnuclear energy technologies, to the short-term, middle-term, and long-term time intervals, and shall present full and complete justification for these assignments and the degree of emphasis for each. These program elements and activities shall include, but not be limited to, research, development, and demonstrations designed—

(A) to advance energy conservation technologies, including but not limited to—

<sup>1</sup> See References in Text note below.

(i) productive use of waste, including garbage, sewage, agricultural wastes, and industrial waste heat;

(ii) reuse and recycling of materials and consumer products;

(iii) improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine and systems of efficient public transportation; and

(iv) advanced urban and architectural design to promote efficient energy use in the residential and commercial sectors, improvements in home design and insulation technologies, small thermal storage units and increased efficiency in electrical appliances and lighting fixtures;

(B) to accelerate the commercial demonstration of technologies for producing low-sulfur fuels suitable for boiler use;

(C) to demonstrate improved methods for the generation, storage, and transmission of electrical energy through (i) advances in gas turbine technologies, combined power cycles, the use of low British thermal unit gas and, if practicable, magnetohydrodynamics; (ii) storage systems to allow more efficient load following, including the use of inertial energy storage systems; and (iii) improvement in cryogenic transmission methods;

(D) to accelerate the commercial demonstration of technologies for producing substitutes for natural gas, including coal gasification: *Provided*, That the Secretary shall invite and consider proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(E) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided*, That the Secretary shall invite and consider proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchase of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(F) in accordance with the program authorized by the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-410) [30 U.S.C. 1101 et seq.], to accelerate the commercial demonstration of geothermal energy technologies;

(G) to demonstrate the production of syncrude from oil shale by all promising technologies including in situ technologies;

(H) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(I) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications in accordance with the program authorized by the Solar Heating and Cooling Dem-

onstration Act of 1974 (Public Law 93-409) [42 U.S.C. 5501 et seq.];

(J) to accelerate the commercial demonstration of environmental control systems for energy technologies developed pursuant to this chapter;

(K) to investigate the technical and economic feasibility of tidal power for supplying electrical energy;

(L) to commercially demonstrate advanced solar energy technologies in accordance with the Solar Energy Research, Development, and Demonstration Act of 1974 (Public Law 93-473) [42 U.S.C. 5551 et seq.];

(M) to determine the economics and commercial viability of the production of synthetic fuels such as hydrogen and methanol;

(N) to commercially demonstrate the use of fuel cells for central station electric power generation;

(O) to determine the economics and commercial viability of in situ coal gasification;

(P) to improve techniques for the management of existing energy systems by means of quality control; application of systems analysis, communications, and computer techniques; and public information with the objective of improving the reliability and efficiency of energy supplies and encourage the conservation of energy resources;

(Q) to improve methods for the prevention and cleanup of marine oil spills;

(R) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

(S) to implement titles XX through XXIII of the Energy Policy Act of 1992 [42 U.S.C. 13401 et seq., 13451 et seq., 13501 et seq., 13521 et seq.].

(c) Based upon the comprehensive plan developed under subsection (a) of this section, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992 [42 U.S.C. 13522], shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans. Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914<sup>1</sup> of this title.

(Pub. L. 93-577, § 6, Dec. 31, 1974, 88 Stat. 1881; Pub. L. 95-238, title II, § 206(a), Feb. 25, 1978, 92 Stat. 61; Pub. L. 102-486, title XXIII, § 2303(a), Oct. 24, 1992, 106 Stat. 3092; Pub. L. 109-58, title X, § 1009(b)(4), Aug. 8, 2005, 119 Stat. 935.)

#### REFERENCES IN TEXT

The Energy Reorganization Act of 1974, referred to in subsec. (a), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§5801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Department of Energy Organization Act, referred to in subsec. (a), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§7101 et seq.) of this title. For complete classi-

fication of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Energy Policy Act of 1992, referred to in subsecs. (a) and (b)(3)(S), is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776. Titles XX through XXIII of the Act are classified generally to subchapters VIII (§13401 et seq.), IX (§13451 et seq.), X (§13501 et seq.), and XI (§13521 et seq.), respectively, of chapter 134 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

Section 5914 of this title, referred to in subsecs. (a), (b)(1), and (c), was omitted from the Code.

The Geothermal Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3)(F), is Pub. L. 93-410, Sept. 3, 1974, 88 Stat. 1079, as amended, which is classified generally to chapter 24 (§1101 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 30 and Tables.

The Solar Heating and Cooling Demonstration Act of 1974, referred to in subsec. (b)(3)(I), is Pub. L. 93-409, Sept. 3, 1974, 88 Stat. 1069, as amended, which is classified generally to subchapter I (§5501 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of this title and Tables.

The Solar Energy Research, Development, and Demonstration Act of 1974, referred to in subsec. (b)(3)(L), is Pub. L. 93-473, Oct. 26, 1974, 88 Stat. 1431, as amended, which is classified generally to subchapter II (§5551 et seq.) of chapter 71 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5551 of this title and Tables.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, referred to in subsec. (b)(3)(R), is Pub. L. 101-218, Dec. 11, 1989, 103 Stat. 1859, which is classified principally to chapter 125 (§12001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

#### AMENDMENTS

2005—Subsec. (b)(3). Pub. L. 109-58 substituted “Secretary” for “Administrator” in introductory provisions and subpars. (D) and (E) and inserted “Demonstration” after “Cooling” in subpar. (I) and “Energy” after “Solar” in subpar. (L).

1992—Subsec. (a). Pub. L. 102-486, §2303(a)(1)(A), substituted “the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy Act of 1992, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,” for “the Administrator”.

Subsec. (a)(1). Pub. L. 102-486, §2303(a)(1)(B), substituted “(the period up to 5 years after submission of the plan or its annual revision)” for “(to the early 1980’s)”.

Subsec. (a)(2). Pub. L. 102-486, §2303(a)(1)(C), substituted “(the period from 5 years to 10 years after submission of the plan or its annual revision)” for “(the early 1980’s to 2000)”.

Subsec. (a)(3). Pub. L. 102-486, §2303(a)(1)(D), substituted “(the period beyond 10 years after submission of the plan or its annual revision)” for “(beyond 2000)”.

Subsec. (b)(1). Pub. L. 102-486, §2303(a)(2)(B), inserted at end “Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914 of this title.”

Pub. L. 102-486, §2303(a)(2)(A), substituted “Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,” for “Administrator”.

Subsec. (b)(2). Pub. L. 102-486, §2303(a)(2)(C), substituted “, middle-term, and long-term time intervals described in subsection (a)(1) through (3) of this section” for “(to the early 1980’s), middle-term (the early 1980’s to 2000), and long-term (beyond 2000) time intervals”.

Pub. L. 102-486, §2303(a)(2)(A), substituted “Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,” for “Administrator”.

Subsec. (b)(3). Pub. L. 102-486, §2303(a)(2)(D)–(F), added subpars. (R) and (S).

Subsec. (c). Pub. L. 102-486, §2303(a)(3)(B), inserted at end “Such program shall be updated and transmitted to the Congress annually as part of the report required under section 5914 of this title.”

Pub. L. 102-486, §2303(a)(3)(A), substituted “Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,” for “Administrator”.

1978—Subsec. (c). Pub. L. 95-238 added subsec. (c).

NONAPPLICABILITY OF TITLE II OF PUB. L. 95-238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95-238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95-238, set out as a note under section 5821 of this title.

### §5906. Federal assistance and participation in programs

#### (a) Forms of activities authorized

In carrying out the objectives of this chapter, the Secretary may utilize various forms of Federal assistance and participation which may include but are not limited to—

(1) joint Federal-industry experimental, demonstration, or commercial corporations consistent with the provisions of subsection (b) of this section;

(2) contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities and nonprofit institutions;

(3) contracts for the construction and operation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of subsection (c) of this section;

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies;

(6) incentives, including financial awards, to individual inventors, such incentives to be designed to encourage the participation of a large number of such inventors; and

(7) Federal loan guarantees and commitments thereof as provided in section 5919<sup>1</sup> of this title.

#### (b) Proposed joint Federal-industry corporations; operational guidelines; powers, duties, and functions; composition; scope of Federal assistance and participation; specific authorization

Joint Federal-industry corporations proposed for congressional authorization pursuant to this chapter shall be subject to the provisions of section 5908 of this title and shall conform to the following guidelines except as otherwise authorized by Congress:

(1) Each such corporation may design, construct, operate, and maintain one or more

<sup>1</sup> See Codification note below.

experimental, demonstration, or commercial-size facilities, or other operations which will ascertain the technical, environmental, and economic feasibility of a particular energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants, as may be necessary for the design of the full-scale facility.

(2) Each corporation shall have—

(A) a Board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements to participate in the corporation;

(B) a President and such other officers and employees as may be named and appointed by the Board (with the rates of compensation of all officers and employees being fixed by the Board); and

(C) the usual powers conferred upon corporations by the laws of the District of Columbia.

(3) An appropriate time interval, not to exceed 12 years, shall be established for the term of Federal participation in the corporation, at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest and consistent with existing law; and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Secretary: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(4) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions to which this chapter applies.

(5) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined in order to facilitate a single congressional authorization of the full amount at the time of establishment of the corporation.

(6) The Federal share of the cost of each such corporation shall reflect (A) the technical and economic risk of the venture, (B) the probability of any financial return to the non-Federal participants arising from the venture, (C) the financial capability of the potential non-Federal participants, and (D) such other factors as the Secretary may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

(7) No such corporation shall be established unless previously authorized by specific legislation enacted by the Congress.

**(c) Proposed competitive systems of price supports for demonstration facilities; guidelines**

Competitive systems of price supports proposed for congressional authorization pursuant to this chapter shall conform to the following guidelines:

(1) The Secretary shall determine the types and capacities of the desired full-scale, commercial-size facility or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular nonnuclear energy technology.

(2) The Secretary may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to paragraph (1) of this subsection. Such planning grants may be awarded to Federal and non-Federal entities including, but not limited to, industrial entities, universities, and nonprofit organizations. Such planning grants may also be used by the grantee to prepare a detailed and comprehensive bid to construct the demonstration facility.

(3) Following the completion of the studies pursuant to the planning grants awarded under paragraph (2) of this subsection regarding each such potential price supported demonstration facility for which the Secretary intends to request congressional authorization, he shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Secretary may designate one or more competing entities, each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities, (A) commitment to construct the demonstration facility at the minimum level of Federal price supports, (B) detailed plan of environmental protection, and (C) proposed design and operation of the demonstration facility.

(4) The construction plans and actual construction of the demonstration facility, together with all related facilities, shall be monitored by the Environmental Protection Agency. If additional environmental requirements are imposed by the Secretary after the des-



ignation of the successful bidders and if such additional environmental requirements result in additional costs, the Secretary is authorized to renegotiate the support price to cover such additional costs.

(5) The estimated amount of the Federal price support for a demonstration facility's product over the life of such facility shall be determined by the Secretary to facilitate a single congressional authorization of the full amount of such support at the time of the designation of the successful bidders.

(6) No price support program shall be implemented unless previously authorized by specific legislation enacted by the Congress.

**(d) Support for joint university-industry research efforts**

Nothing in this section shall preclude Federal participation in, and support for, joint university-industry nonnuclear energy research efforts.

(Pub. L. 93-577, §7, Dec. 31, 1974, 88 Stat. 1883; Pub. L. 95-238, title II, §207(a), Feb. 25, 1978, 92 Stat. 61; Pub. L. 99-386, title I, §104(a), Aug. 22, 1986, 100 Stat. 821; Pub. L. 109-58, title X, §1009(b)(5), Aug. 8, 2005, 119 Stat. 935.)

**CODIFICATION**

Section 5919 of this title, referred to in subsec. (a)(7), was in the original "section 19" and has been editorially translated as section 5919 of this title which related to loan guarantees prior to repeal by Pub. L. 109-58, title X, §1009(b)(12), Aug. 8, 2005, 119 Stat. 936, to reflect the probable intent of Congress, notwithstanding enactment of another section 19 which was classified to section 5918 of this title and related to organizational conflicts prior to repeal by Pub. L. 104-106, div. D, title XLIII, §4304(b)(5), Feb. 10, 1996, 110 Stat. 664.

**AMENDMENTS**

2005—Subsec. (a). Pub. L. 109-58, §1009(b)(5)(A), substituted "Secretary" for "Administrator" in introductory provisions.

Subsec. (a)(4). Pub. L. 109-58, §1009(b)(5)(B), substituted "of this section" for "of the section".

Subsecs. (b), (c). Pub. L. 109-58, §1009(b)(5)(A), substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (b)(7). Pub. L. 99-386 struck out subpar. (A) which related to submission of a report by Secretary to House and Senate, prior to establishment of any joint Federal-industry corporation pursuant to this chapter, setting forth in detail consistency of establishment of corporation with this section and section 5904 of this title, and proposed purpose and activities of corporation, and struck out subpar. (B) designation.

1978—Subsec. (a)(7). Pub. L. 95-238 added par. (7).

**NONAPPLICABILITY OF TITLE II OF PUB. L. 95-238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS**

Nonapplicability of provisions of title II of Pub. L. 95-238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95-238, set out as a note under section 5821 of this title.

**PRICE-SUPPORT PROGRAM TO DEMONSTRATE MUNICIPAL SOLID WASTE REPROCESSING FOR PRODUCTION OF FUELS AND ENERGY INTENSIVE PRODUCTS**

Pub. L. 95-39, title I, §107, June 3, 1977, 91 Stat. 185, authorized Administrator, subject to the appropriation of funds pursuant to section 101(7)(I) of Pub. L. 95-39, to

establish and implement, under subsection (a)(4) of this section and in accordance with subsection (c) of this section, a price-support program to demonstrate municipal solid waste reprocessing for production of fuels and energy intensive products, with Administrator, prior to entering into any contract for such demonstration, to submit to Congress a full and complete report on the proposed commercial demonstration facility and the necessary project demonstration guarantees, and provided that such contract could not be finalized prior to the expiration of ninety calendar days (not including any day on which either House of Congress was not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report was received.

**§ 5907. Demonstration projects**

**(a) Scope of authority of Secretary**

The Secretary is authorized to—

(1) identify opportunities to accelerate the commercial applications of new energy technologies, and provide Federal assistance for or participation in demonstration projects (including pilot plants demonstrating technological advances and field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources); and

(2) enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

**(b) Criteria applicable in reviewing potential projects**

In reviewing potential projects, the Secretary shall consider criteria including but not limited to—

(1) the anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed;

(2) the economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

(3) the relationship of the proposal to the criteria of priority set forth in section 5904(b)(2) of this title;

(4) the availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal;

(5) the total estimated cost including the Federal investment and the probable time schedule;

(6) the proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

(7) the proposed cooperative arrangement, agreements among the participants, and form of management of the activities.

**(c) Federal and non-Federal share of costs**

(1) A financial award under this section may be made only to the extent of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs.

(2) For the purposes of this chapter the non-Federal share may be in any form, including,

but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Secretary.

**(d) Regulations**

(1) The Administrator of the Energy Research and Development Administration shall, within six months of December 31, 1974, promulgate regulations establishing procedures for submission of proposals to the Energy Research and Development Administration for the purposes of this chapter. Such regulations shall establish a procedure for selection of proposals which—

(A) provides that projects will be carried out under such conditions and varying circumstances as will assist in solving energy extraction, transportation, conversion, conservation, and end-use problems of various areas and regions, under representative geological, geographic, and environmental conditions; and

(B) provides time schedules for submission of, and action on, proposal requests for the purposes of implementing the goals and objectives of this chapter.

(2) Such regulations also shall specify the types and form of the information, data, and support documentation that are to be contained in proposals for each form of Federal assistance or participation set forth in section 5906(a) of this title: *Provided*, That such proposals to the extent possible shall include, but not be limited to—

(A) specification of the technology;

(B) description of prior pilot plant operating experience with the technology;

(C) preliminary design of the demonstration plant;

(D) time tables containing proposed construction and operation plans;

(E) budget-type estimates of construction and operating costs;

(F) description and proof of title to land for proposed site, natural resources, electricity and water supply and logistical information related to access to raw materials to construct and operate the plant and to dispose of salable products produced from the plant;

(G) analysis of the environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant;

(H) plans for commercial use of the technology if the demonstration is successful;

(I) plans for continued use of the plant if the demonstration is successful; and

(J) plans for dismantling of the plant if the demonstration is unsuccessful or otherwise abandoned.

(3) The Secretary shall from time to time review and, as appropriate, modify and repromulgate regulations issued pursuant to this section.

**(e) Amount of estimate of Federal investment requiring Congressional authorization for appropriation**

If the estimate of the Federal investment with respect to construction costs of any demonstration project proposed to be established under this section exceeds \$50,000,000, no amount may be appropriated for such project except as spe-

cifically authorized by legislation hereafter enacted by the Congress.

**(f) Amount of estimated Federal contribution; necessity for report**

If the total estimated amount of the Federal contribution to the construction cost of a demonstration project does not exceed \$50,000,000, the Secretary is authorized to proceed with the negotiation of agreements and implementation of the proposal subject to the availability of funds under the authorization of appropriations pursuant to section 5915 of this title: *Provided*, That if such Federal contribution to the construction cost is estimated to exceed \$25,000,000 the Secretary shall provide a full and comprehensive report on the proposed demonstration project to the appropriate committees of the Congress and no funds may be expended for any agreement under the authority granted by this section prior to the expiration of sixty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's report on the proposed project is received by the Congress. Such reports shall contain an analysis of the extent to which the proposed demonstration satisfies the criteria specified in subsection (b) of this section.

(Pub. L. 93-577, §8, Dec. 31, 1974, 88 Stat. 1886; Pub. L. 109-58, title X, §1009(b)(6), Aug. 8, 2005, 119 Stat. 935.)

AMENDMENTS

2005—Subsecs. (a), (b), (c)(2). Pub. L. 109-58, §1009(b)(6)(A), substituted “Secretary” for “Administrator” in introductory provisions of subsecs. (a) and (b) and in par. (2) of subsec. (c).

Subsec. (d)(1). Pub. L. 109-58, §1009(b)(6)(B)(i), substituted “Administrator of the Energy Research and Development Administration” for “Administrator” in introductory provisions.

Subsec. (d)(3). Pub. L. 109-58, §1009(b)(6)(B)(ii), substituted “Secretary” for “Administrator”.

Subsec. (f). Pub. L. 109-58, §1009(b)(6)(C), substituted “Secretary” for “Administrator” in two places and “Secretary’s” for “Administrator’s”.

TRANSFER OF FUNCTIONS

The Energy Research and Development Administration, referred to in subsec. (d)(1), was terminated and all of its functions and the functions of its Administrator were transferred (with certain exceptions) to the Secretary of Energy. See sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title.

REPORT TO CONGRESS ON ENVIRONMENTAL, MONITORING, ASSESSMENT, AND CONTROL EFFORTS REQUIRED FOR DEMONSTRATION PROJECTS; SUBMISSION TO CONGRESS BY DECEMBER 3, 1977

Pub. L. 95-39, title I, §113, June 3, 1977, 91 Stat. 187, directed Administrator of Energy Research and Development Administration, in consultation with Administrator of Environmental Protection Agency, to submit a report to Congress six months after June 3, 1977, on the environmental monitoring, assessment, and control efforts, relating to environment, safety, and health, which are required to successfully demonstrate any project which is subject to subsecs. (e) and (f) of this section and is authorized by this Act or any prior Act.

**§ 5907a. Small grant program****(a) Establishment**

There shall be established within the Department of Energy a program for appropriate technology under the direction of the Secretary. The Secretary shall develop and implement a program of small grants for the purpose of encouraging development and demonstration projects described in subsection (c) of this section.

**(b) Limitation**

The aggregate amount of financial support made available to any participant in such program, including affiliates, under this section shall not exceed \$50,000 during any two-year period.

**(c) Systems and technologies to be developed and demonstrated**

Funds made available under this section shall be used to provide for a coordinated and expanded effort for the development and demonstration of, and the dissemination of information with respect to, energy-related systems and supporting technologies appropriate to—

- (1) the needs of local communities and the enhancement of community self-reliance through the use of available resources;
- (2) the use of renewable resources and the conservation of nonrenewable resources;
- (3) the use of existing technologies applied to novel situations and uses;
- (4) applications which are energy-conserving, environmentally sound, small scale, durable and low cost; and
- (5) applications which demonstrate simplicity of installation, operation and maintenance.

**(d) Eligible participants; simplified application procedures; report to Secretary; allocation criteria; guidelines**

(1) Grants, agreements or contracts under this section may be made to individuals, local non-profit organizations and institutions, State and local agencies, Indian tribes and small businesses. The Secretary shall develop simplified procedures with respect to application for support under this section.

(2) Each grant, agreement or contract under this section shall be governed by the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5908] and shall contain effective provisions under which the Secretary shall receive a full written report of activities supported in whole or in part by funds made available by the Secretary; and

(3) In determining the allocation of funds among applicants for support under this section the Secretary may take into consideration:

- (A) the potential for energy savings or energy production;
- (B) the type of fuel saved or produced;
- (C) the potential impact on local or regional energy or environmental problems; and
- (D) such other criteria as the Secretary finds necessary to achieve the purposes of this Act or the purposes of the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5901 et seq.].

Guidelines implementing this section shall be promulgated with full opportunity for public comment.

**(e) Reports to Congress**

The Secretary shall—

(1) prepare and submit no later than October 1, 1977, a detailed report on plans for implementation, including the timing of implementation, of the provisions of this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives and shall keep such committees fully and currently informed concerning the development of such plans; and

(2) include as a part of the annual report required by section 15(a)(1)<sup>1</sup> of the Federal Nonnuclear Energy Research and Development Act of 1974 beginning in 1977, a full and complete report on the program under this section.

(Pub. L. 95-39, title I, § 112, June 3, 1977, 91 Stat. 186; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

## REFERENCES IN TEXT

This Act, referred to in subsec. (d)(3)(D), means Pub. L. 95-39, June 3, 1977, 91 Stat. 180, which to the extent classified to the Code enacted sections 5816a, 5817a, 5903c, 5907a, 5915a, 5918, and 7001 to 7011 of this title, amended sections 5813, 5818, and 5912 of this title, and enacted provisions set out as notes under sections 5906, 5907, 5914, and 7001 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (d)(3)(D), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to this chapter (§ 5901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

Section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (e)(2), was classified to section 5914 of this title and was omitted from the Code.

## CODIFICATION

Section was not enacted as part of the Federal Nonnuclear Energy Research and Development Act of 1974 which comprises this chapter.

## TRANSFER OF FUNCTIONS

“Secretary”, meaning Secretary of Energy, substituted for “Administrator”, “Administration”, and “Assistant Administrator for Conservation and Development”, meaning Energy Research and Development Administration and Administrator thereof, in subssecs. (a), (d), and (e) and “Department of Energy” substituted for “Administration” in subsec. (a) pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

**§ 5908. Patents and inventions****(a) Vesting of title to invention and issuance of patents to United States; prerequisites**

Whenever any invention is made or conceived in the course of or under any contract of the Department, other than nuclear energy research, development, and demonstration pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Secretary determines that—

<sup>1</sup> See References in Text note below.

(1) the person who made the invention was employed or assigned to perform research, development, or demonstration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or demonstration work, but the invention is nevertheless related to the contract or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1).<sup>1</sup>

title to such invention shall vest in the United States, and if patents on such invention are issued they shall be issued to the United States, unless in particular circumstances the Secretary waives all or any part of the rights of the United States to such invention in conformity with the provisions of this section.

**(b) Contract as requiring report to Department of invention, etc., made in course of contract**

Each contract entered into by the Department with any person shall contain effective provisions under which such person shall furnish promptly to the Department a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the course of or under such contract.

**(c) Waiver by Secretary of rights of United States; regulations prescribing procedures; record of waiver determinations; objectives**

Under such regulations in conformity with the provisions of this section as the Secretary shall prescribe, the Secretary may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the course of or under any contract of the Department if he determines that the interests of the United States and the general public will be best served by such waiver. The Department shall maintain a publicly available, periodically updated record of waiver determinations. In making such determinations, the Secretary shall have the following objectives:

(1) Making the benefits of the energy research, development, and demonstration program widely available to the public in the shortest practicable time.

(2) Promoting the commercial utilization of such inventions.

(3) Encouraging participation by private persons in the Department's energy research, development, and demonstration program.

(4) Fostering competition and preventing undue market concentration or the creation

or maintenance of other situations inconsistent with the antitrust laws.

**(d) Considerations applicable at time of contracting for waiver determination by Secretary**

In determining whether a waiver to the contractor at the time of contracting will best serve the interests of the United States and the general public, the Secretary shall specifically include as considerations—

(1) the extent to which the participation of the contractor will expedite the attainment of the purposes of the program;

(2) the extent to which a waiver of all or any part of such rights in any or all fields of technology is needed to secure the participation of the particular contractor;

(3) the extent to which the contractor's commercial position may expedite utilization of the research, development, and demonstration program results;

(4) the extent to which the Government has contributed to the field of technology to be funded under the contract;

(5) the purpose and nature of the contract, including the intended use of the results developed thereunder;

(6) the extent to which the contractor has made or will make substantial investment of financial resources or technology developed at the contractor's private expense which will directly benefit the work to be performed under the contract;

(7) the extent to which the field of technology to be funded under the contract has been developed at the contractor's private expense;

(8) the extent to which the Government intends to further develop to the point of commercial utilization the results of the contract effort;

(9) the extent to which the contract objectives are concerned with the public health, public safety, or public welfare;

(10) the likely effect of the waiver on competition and market concentration; and

(11) in the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program, approved by the Secretary as being consistent with the applicable policies of this section.

**(e) Considerations applicable to identified invention for waiver determination by Secretary**

In determining whether a waiver to the contractor or inventor or rights to an identified invention will best serve the interests of the United States and the general public, the Secretary shall specifically include as considerations paragraphs (4) through (11) of subsection (d) of this section as applied to the invention and—

(1) the extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention; and

(2) the extent to which the plans, intentions, and ability of the contractor or inventor will obtain expeditious commercialization of such invention.

<sup>1</sup> So in original. Probably should be a comma.

**(f) Rights subject to reservation where title to invention vested in United States**

Whenever title to an invention is vested in the United States, there may be reserved to the contractor or inventor—

(1) a revocable or irrevocable nonexclusive, paid-up license for the practice of the invention throughout the world; and

(2) the rights to such invention in any foreign country where the United States has elected not to secure patent rights and the contractor elects to do so, subject to the rights set forth in paragraphs (2), (3), (6), and (7) of subsection (h) of this section: *Provided*, That when specifically requested by the Department and three years after issuance of such a patent, the contractor shall submit the report specified in subsection (h)(1) of this section.

**(g) to (i) Repealed. Pub. L. 96-517, § 7(c), Dec. 12, 1980, 94 Stat. 3027**

**(j) Small business status of applicant for waiver or licenses**

The Secretary shall, in granting waivers or licenses, consider the small business status of the applicant.

**(k) Protection of invention, etc., rights by Secretary**

The Secretary is authorized to take all suitable and necessary steps to protect any invention or discovery to which the United States holds title, and to require that contractors or persons who acquire rights to inventions under this section protect such inventions.

**(l) Department as defense agency of United States for purpose of maintaining secrecy of inventions**

The Department shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35.

**(m) Definitions**

As used in this section—

(1) the term “person” means any individual, partnership, corporation, association, institution, or other entity;

(2) the term “contract” means any contract, grant, agreement, understanding, or other arrangement, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(3) the term “made”, when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(4) the term “invention” means inventions or discoveries, whether patented or unpatented; and

(5) the term “contractor” means any person having a contract with or on behalf of the Department.

**(n) Report concerning applicability of existing patent policies to energy programs; time for submission to President and appropriate congressional committees**

Within twelve months after December 31, 1974, the Secretary with the participation of the At-

torney General, the Secretary of Commerce, and other officials as the President may designate, shall submit to the President and the appropriate congressional committees a report concerning the applicability of existing patent policies affecting the programs under this chapter, along with his recommendations for amendments or additions to the statutory patent policy, including his recommendations on mandatory licensing, which he deems advisable for carrying out the purposes of this chapter.

(Pub. L. 93-577, § 9, Dec. 31, 1974, 88 Stat. 1887; Pub. L. 96-517, § 7(c), Dec. 12, 1980, 94 Stat. 3027; Pub. L. 109-58, title X, § 1009(b)(7), Aug. 8, 2005, 119 Stat. 935.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” in introductory and concluding provisions.

Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration” in introductory provisions.

Subsec. (b). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration” in two places.

Subsec. (c). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” wherever appearing in introductory provisions.

Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration” in two places in introductory provisions.

Subsec. (c)(3). Pub. L. 109-58, § 1009(b)(7)(C), substituted “Department’s” for “Administration’s”.

Subsec. (d). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” in introductory provisions and par. (11).

Subsec. (e). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator” in introductory provisions.

Subsec. (f)(2). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration”.

Subsecs. (j), (k). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary” for “Administrator”.

Subsec. (l). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration”.

Subsec. (m)(5). Pub. L. 109-58, § 1009(b)(7)(A), substituted “Department” for “Administration”.

Subsec. (n). Pub. L. 109-58, § 1009(b)(7)(B), substituted “Secretary with” for “Administrator with”.

1980—Subsec. (g). Pub. L. 96-517 struck out subsec. (g) which related to licenses for inventions, promulgation of regulations specifying terms and conditions, criteria and procedures for grant of exclusive or partially exclusive licenses, and record of determinations.

Subsec. (h). Pub. L. 96-517 struck out subsec. (h) which related to required terms and conditions in waiver of rights or grant of exclusive or partially exclusive license.

Subsec. (i). Pub. L. 96-517 struck out subsec. (i) which related to publication in the Federal Register by the Administrator of waiver or license termination hearing requirements and availability of records.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-517 effective July 1, 1981, but implementing regulations authorized to be issued earlier, see section 8(f) of Pub. L. 96-517, set out as a note under section 41 of Title 35, Patents.

**§ 5909. Relationship to antitrust laws**

(a) Nothing in this chapter shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term “antitrust law” means—

(1) the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914 (15 U.S.C. 12 et seq.) as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Pub. L. 93-577, § 10, Dec. 31, 1974, 88 Stat. 1891.)

## REFERENCES IN TEXT

Act of July 2, 1890, referred to in subsec. (b)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914, referred to in subsec. (b)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended, referred to in subsec. (b)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Act of June 19, 1936, chapter 592, referred to in subsec. (b)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

**§ 5910. Repealed. Pub. L. 104-66, title II, § 2021(i), Dec. 21, 1995, 109 Stat. 727**

Section, Pub. L. 93-577, § 11, Dec. 31, 1974, 88 Stat. 1892; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; 1977 Reorg. Plan No. 1, § 5E, 42 F.R. 56101, 91 Stat. 1634, related to environmental evaluations by Administrator of Environmental Protection Agency.

**§ 5911. Acquisition of essential materials**

(a) The President may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he finds that—

(1) such supplies are scarce, critical, and essential to carry out the purposes of this chapter; and

(2) such supplies cannot reasonably be obtained without exercising the authority granted by this section.

(b) A rule or order under subsection (a) of this section shall be considered to be a major rule subject to chapter 8 of title 5.

(Pub. L. 93-577, § 12, Dec. 31, 1974, 88 Stat. 1892; Pub. L. 109-58, title X, § 1009(b)(8), Aug. 8, 2005, 119 Stat. 935.)

## AMENDMENTS

2005—Subsec. (b). Pub. L. 109-58 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The President shall transmit any rule or order proposed under subsection (a) of this section (bearing an identification number) to each House of Congress on the date on which it is proposed. If such proposed rule or order is transmitted to the Congress such proposed rule or order shall take effect at the end of the first period of thirty calendar days of continuous session of Congress after the date on which such proposed rule or order is transmitted to it unless, between the date of transmittal and the end of the thirty day period, either House passes a resolution stating in substance that such House does not favor such a proposed rule or order.”

**§ 5912. Water resource assessments****(a) Assessments by Water Resources Council of water resource requirements and water supply availability for nonnuclear energy technologies; preparation requirements**

The Water Resources Council shall undertake assessments of water resource requirements and water supply availability for any nonnuclear energy technology and any probable combinations of technologies which are the subject of Federal research and development efforts authorized by this chapter, and the commercial development of which could have significant impacts on water resources. In the preparation of its assessment, the Council shall—

(1) utilize to the maximum extent practicable data on water supply and demand available in the files of member agencies of the Council;

(2) collect and compile any additional data it deems necessary for complete and accurate assessments;

(3) give full consideration to the constraints upon availability imposed by treaty, compact, court decree, State water laws, and water rights granted pursuant to State and Federal law;

(4) assess the effects of development of such technology on water quality;

(5) include estimates of cost associated with production and management of the required water supply, and the cost of disposal of waste water generated by the proposed facility or process;

(6) assess the environmental, social, and economic impact of any change in use of currently utilized water resource that may be required by the proposed facility or process; and

(7) consult with the Council on Environmental Quality.

**(b) Request by Secretary that Water Resources Council prepare assessment of availability of adequate water resources for proposed demonstration projects; report; publication**

For any proposed demonstration project which may involve a significant impact on water resources, the Secretary shall, as a precondition of Federal assistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for such project. A report on the assessment shall be published in the Federal Register for public review thirty days prior to the expenditure of Federal funds on the demonstration.

**(c) Assessment by Water Resources Council of availability of adequate water resources as precondition for Federal assistance for commercial application of nonnuclear energy technologies**

For any proposed Federal assistance for commercial application of energy technologies pursuant to this chapter, the Water Resource<sup>1</sup> Council shall, as a precondition of such Federal assistance, provide to the Secretary an assessment of the availability of adequate water resources for such commercial application and an evaluation of the environmental, social, and economic impacts of the dedication of water to such uses.

**(d) Publication of reports of assessments and evaluations by Water Resources Council in Federal Register; public review and comments**

Reports of assessments and evaluations prepared by the Council pursuant to subsections (a) and (c) of this section shall be published in the Federal Register and at least ninety days shall be provided for public review and comment. Comments received shall accompany the reports when they are submitted to the Secretary and shall be available to the public.

**(e) Inclusion of survey and analysis of regional and national water resource availability in biennial assessment by Water Resources Council**

The Council shall include a broad survey and analysis of regional and national water resource availability for energy development in the biennial assessment required by section 1962a-1(a) of this title.

**(f) Secretary as member of Water Resources Council**

The Secretary shall, upon enactment of this subsection, be a member of the Council.

(Pub. L. 93-577, §13, Dec. 31, 1974, 88 Stat. 1893; Pub. L. 95-39, title I, §110, June 3, 1977, 91 Stat. 186; Pub. L. 109-58, title X, §1009(b)(9), Aug. 8, 2005, 119 Stat. 935.)

AMENDMENTS

2005—Subsecs. (b) to (d), (f). Pub. L. 109-58 substituted “Secretary” for “Administrator”.

1977—Subsec. (a). Pub. L. 95-39, §110(1), substituted “The Water Resources Council” for “At the request of the Administrator, the Water Resources Council”.

Subsec. (b). Pub. L. 95-39, §110(2), substituted “the Administrator shall, as a precondition of Federal as-

sistance to that project, request the Water Resources Council to prepare an assessment of water requirements and availability for such project” for “the Administrator shall, as a precondition of Federal assistance to that project, prepare or have prepared an assessment of the availability of adequate water resources”.

Subsec. (f). Pub. L. 95-39, §110(3), added subsec. (f).

TRANSFER OF FUNCTIONS

Functions of Council on Environmental Quality and Office of Environmental Quality relating to evaluation provided for by section 5910 of this title transferred to Administrator of Environmental Protection Agency by Reorg. Plan No. 1 of 1977, §5E, 42 F.R. 56101, 91 Stat. 1634, set out in the Appendix to Title 5, Government Organization and Employees, effective Feb. 26, 1978, pursuant to Ex. Ord. No. 12040, Feb. 24, 1978, 43 F.R. 8097, formerly set out under section 5910 of this title.

**§ 5913. Evaluation by National Institute of Standards and Technology of energy-related inventions prior to awarding of grants by Secretary; promulgation of regulations**

The National Institute of Standards and Technology shall give particular attention to the evaluation of all promising energy-related inventions, particularly those submitted by individual inventors and small companies for the purpose of obtaining direct grants from the Secretary. The National Institute of Standards and Technology is authorized to promulgate regulations in the furtherance of this section.

(Pub. L. 93-577, §14, Dec. 31, 1974, 88 Stat. 1894; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

AMENDMENTS

1988—Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards” in two places.

TRANSFER OF FUNCTIONS

“Secretary”, meaning Secretary of Energy, substituted in text for “Administrator”, meaning Administrator of Energy Research and Development Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

**§ 5914. Omitted**

CODIFICATION

Section, Pub. L. 93-577, §15, Dec. 31, 1974, 88 Stat. 1894; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95-238, title II, §206(b), Feb. 25, 1978, 92 Stat. 61, which required the Secretary to submit annually to Congress a report detailing the activities carried out pursuant to this chapter during the preceding fiscal year, a detailed description of the comprehensive plan for nuclear and non-nuclear energy research, development, and demonstration then in effect under section 5905(a) of this title, a detailed description of the comprehensive nonnuclear research, development, and demonstration program then in effect under section 5905(b) of this title, and a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress and which provided that those reports would satisfy the reporting requirements

<sup>1</sup> So in original. Probably should be “Resources”.

of section 5877(a) of this title insofar as is concerned activities, goals, priorities, and plans of the Secretary pertaining to nonnuclear energy, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 20th item on page 86 of House Document No. 103-7.

#### § 5915. Authorization of appropriations

There may be appropriated to the Secretary to carry out the purposes of this chapter such sums as may be authorized in annual authorization Acts.

(Pub. L. 93-577, §16, Dec. 31, 1974, 88 Stat. 1894; Pub. L. 109-58, title X, §1009(b)(10), Aug. 8, 2005, 119 Stat. 935.)

#### AMENDMENTS

2005—Pub. L. 109-58, in section catchline, substituted “Authorization of appropriations” for “Appropriation authorization”, and in text, substituted “There may be appropriated to the Secretary” for “(a) There may be appropriated to the Administrator” and struck out subsecs. (b) and (c), which related to amounts to be made available to the Council on Environmental Quality and the Water Resources Council and amounts which might be appropriated for demonstration projects.

#### ALTERNATIVE FUELS PRODUCTION; ENERGY SECURITY RESERVE FUND

Pub. L. 96-126, title II, §201, Nov. 27, 1979, 93 Stat. 970, as amended by Pub. L. 99-190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1255, provided that:

“In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, there is hereby established in the Treasury of the United States a special fund to be designated the ‘Energy Security Reserve’, to which is appropriated \$19,000,000,000, to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate domestic commercial production of alternative fuels and only to the extent provided in advance in appropriations Acts: *Provided further*, That of these funds \$1,500,000,000 shall be available immediately to the Secretary of Energy to carry out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.), to remain available until expended, for the purchase or production by way of purchase commitments or price guarantees of alternative fuels: *Provided further*, That the Secretary shall immediately begin the contract process for purchases of, or commitments to purchase, or to resell alternative fuels to the extent of appropriations provided herein: *Provided further*, That of these funds an additional \$708,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities under the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, of which (1) not to exceed \$100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed \$4,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine that such project proposals have economic or technical feasibility; (2) not to exceed \$100,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed \$25,000,000 to support commercial scale development of alternative fuel facilities; (3) not to exceed \$500,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities as authorized by the Federal Nonnuclear Energy Research and Development Act of 1974, as

amended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed under this appropriation shall not exceed the aggregate of \$1,500,000,000; and (4) not to exceed \$8,000,000 shall be available for program management.

“This Act [Pub. L. 96-126] shall be deemed to satisfy the requirements for congressional action pursuant to sections 7(c) and 19 of said Act [section 5906(c) and former section 5919 of this title] with respect to any purchase commitment, price guarantee, or loan guarantee for which funds appropriated hereby are utilized or obligated.

“For the purposes of this appropriation the term ‘alternative fuels’, means gaseous, liquid, or solid fuels and chemical feedstocks derived from coal, shale, tar sands, lignite, peat, biomass, solid waste, unconventional natural gas, and other minerals or organic materials other than crude oil or any derivative thereof.

“Within ninety days following enactment of this Act [Nov. 27, 1979], the Secretary of Energy in his sole discretion shall issue a solicitation for applications which shall include criteria for project development feasibility studies described in this account.

“Loan guarantees for oil shale facilities issued under this appropriation may be used to finance construction of full-sized commercial facilities without regard to the proviso in section 19(b)(1) of said Act [former section 5919(b)(1) of this title] requiring the prior demonstration of a modular facility.

“In any case in which the Government, under the provisions of this appropriation, accepts delivery of and does not resell any alternative fuels, such fuels shall be used by an appropriate Federal agency. Such Federal agency shall pay into the reserve the market price, as determined by the Secretary, for such fuels from sums appropriated to such Federal agency for the purchase of fuels. The Secretary shall pay the contractor, from sums appropriated herein, the contract price for such fuels.

“All amounts received by the Secretary under this appropriation, including fees, any other monies, property, or assets derived by the Secretary from operations under this appropriation shall be deposited in the reserve.

“All payments for obligations and appropriate expenses (including reimbursements to other Government accounts), pursuant to operations of the Secretary under this appropriation shall be paid from the reserve subject to appropriations.

“For the establishment in the Treasury of the United States of a special fund to be designated the ‘Solar and Conservation Reserve’, \$1,000,000,000 to remain available until expended: *Provided*, That these funds shall be available for obligation only to stimulate solar energy and conservation: *Provided further*, That the withdrawal of said funds shall be subject to the passage of authorizing legislation and only to the extent provided in advance in appropriations Acts.”

Additional provisions relating to appropriations for the Energy Security Reserve Fund, purposes for which the Fund is available, and administrative provisions for the Fund and alternative fuels production were contained in the following appropriation Acts:

Pub. L. 98-369, div. B, title I, §2103, July 18, 1984, 98 Stat. 1058.

Pub. L. 97-100, title II, Dec. 23, 1981, 95 Stat. 1407.

Pub. L. 97-12, title I, June 5, 1981, 95 Stat. 48.

Pub. L. 96-369, §121, Oct. 1, 1980, 94 Stat. 1357.

Pub. L. 96-304, title I, July 8, 1980, 94 Stat. 880-882, as amended Pub. L. 96-514, title II, Dec. 12, 1980, 94 Stat. 2974.

#### § 5915a. Expiration of initial authorization to construct fossil energy demonstration plants

Notwithstanding any other applicable provision of law, the initial authorization in this Act or any other Act heretofore or hereafter enacted to construct, pursuant to section 5907 of this title, any fossil energy demonstration plant



shall expire at the end of the three full fiscal years following the date of enactment of such authorization, unless (1) funds to construct each such plant are appropriated or otherwise provided pursuant to applicable law prior thereto, or (2) such authorization period is extended by specific Act of Congress hereafter enacted.

(Pub. L. 95-39, title I, §105, June 3, 1977, 91 Stat. 184.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-39, June 3, 1977, 91 Stat. 180. The provisions of this Act relating to an initial authorization for construction pursuant to section 5907 of this title are not classified to the Code.

#### CODIFICATION

Section was not enacted as part of the Federal Non-nuclear Energy Research and Development Act of 1974 which comprises this chapter.

### § 5916. Central source of nonnuclear energy information

The Secretary shall promptly establish, develop, acquire, and maintain a central source of information on all energy resources and technology in furtherance of the research, development, and demonstration mission carried out directly or indirectly under this chapter. When the Secretary determines that such information is needed to carry out the purposes of this chapter, the Secretary may acquire proprietary and other information (a) by purchase through negotiation or by donation from any person, or (b) from another Federal agency. The information maintained by the Secretary shall be made available to the public, subject to the provisions of section 552 of title 5 and section 1905 of title 18, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Secretary by any person that any information, or portion thereof, obtained under this section by the Secretary directly or indirectly from such person, would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18: *Provided further*, That the Secretary shall, upon request, provide such information to (A) any delegate of the Secretary for the purpose of carrying out this chapter, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Environmental Protection Agency, the Federal Energy Regulatory Commission<sup>1</sup> the Government Accountability Office, other Federal agencies, when necessary to carry out their duties and responsibilities under this chapter and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress or any committee of Congress upon request of the chairman or ranking minority member.

(Pub. L. 93-577, §17, as added Pub. L. 94-187, title III, §312, Dec. 31, 1975, 89 Stat. 1075; amended

Pub. L. 109-58, title X, §1009(b)(11), Aug. 8, 2005, 119 Stat. 936.)

#### AMENDMENTS

2005—Pub. L. 109-58, §1009(b)(11)(A)–(C), (D)(ii), (E), substituted “Secretary shall” for “Administrator shall” wherever appearing, “research, development, and demonstration” for “Administrator’s research, development, and demonstration”, “Secretary determines” for “Administrator determines”, “the Secretary may acquire” for “he may acquire”, “Secretary by” for “Administrator by”, “Secretary directly” for “Administrator directly”, “Secretary for” for “Administrator for”, “the Federal Energy Regulatory Commission” for “the Federal Power Commission,”, and “Government Accountability Office” for “General Accounting Office”, struck out “the Federal Energy Administration,” after “the Federal Trade Commission,”, and inserted “or ranking minority member” before period at end.

Pub. L. 109-58, §1009(b)(11)(D)(i), which directed the substitution of “section 1905 of title 18” for “section 1905 or title 18”, could not be executed because “section 1905 or title 18” does not appear in text.

### § 5917. Repealed. Pub. L. 109-58, title X, § 1009(b)(12), Aug. 8, 2005, 119 Stat. 936

Section, Pub. L. 93-577, §18, as added Pub. L. 94-187, title III, §313, Dec. 31, 1975, 89 Stat. 1075; amended Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607, related to energy information.

### § 5918. Repealed. Pub. L. 104-106, div. D, title XLIII, § 4304(b)(5), Feb. 10, 1996, 110 Stat. 664

Section, Pub. L. 93-577, §19, as added Pub. L. 95-39, title IV, §401, June 3, 1977, 91 Stat. 190; amended Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607, related to organizational conflicts.

#### EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104-106, set out as an Effective Date of 1996 Amendment note under section 251 of Title 41, Public Contracts.

### §§ 5919, 5920. Repealed. Pub. L. 109-58, title X, § 1009(b)(12), Aug. 8, 2005, 119 Stat. 936

Section 5919, Pub. L. 93-577, §19, as added Pub. L. 95-238, title II, §207(b), Feb. 25, 1978, 92 Stat. 61; amended Pub. L. 96-470, title I, §109, Oct. 19, 1980, 94 Stat. 2239; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-437, §15(c)(9), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104-316, title I, §122(o), Oct. 19, 1996, 110 Stat. 3838; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, related to loan guarantees and commitments for alternative fuel demonstration facilities.

Section 5920, Pub. L. 93-577, §20, as added Pub. L. 95-238, title IV, §401, Feb. 25, 1978, 92 Stat. 84; amended Pub. L. 103-437, §15(c)(9), Nov. 2, 1994, 108 Stat. 4592, related to financial support program for municipal waste reprocessing demonstration facilities.

## CHAPTER 75—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

#### CODIFICATION

The Developmental Disabilities Assistance and Bill of Rights Act, formerly comprising this chapter, was title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, which was originally enacted by Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, at which time title I was known as the Mental Retardation Facilities Construction Act, and parts B and C of such title I were classified to sub-

<sup>1</sup> So in original. Probably should be followed by a comma.